

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

INNOVATIVE MOTORSPORTS, LLC,)
)
)
Plaintiff,)
)
)
v.) 1:05CV148
)
)
AIRVEST, INC.; RANDY DREW; and)
UPTREND, INC.,)
)
Defendants.)

ORDER AND JUDGMENT

This matter is before the Court on Plaintiff's Motion for Default Judgment [Document #8] as to Defendants Airvest, Inc. and Uptrend, Inc. Defendants Airvest, Inc. and Uptrend, Inc. have failed to plead or otherwise defend in this action, and an entry of default was entered against them on January 19, 2006.

Having considered Plaintiff's Motion, the Court finds that Defendants Airvest, Inc. and Uptrend, Inc. have failed to plead and are in default, that they are not infants or incompetent persons, that they are not in the military service of the United States, that this Court has jurisdiction with respect to Defendants Airvest, Inc. and Uptrend, Inc., that this Court has jurisdiction with respect to the subject matter of Plaintiff's Complaint, and that Defendants Airvest, Inc. and Uptrend, Inc. are otherwise subject to default as provided by the Federal Rules of Civil Procedure.

However, with respect to Defendant Randy Drew, the Court finds that it does not appear from the record that Plaintiff has obtained service upon Defendant Randy Drew within 120 days

after filing of the Complaint. Plaintiff was notified of this failure but did not file any additional documentation or demonstration of good cause as to why service was not made within the requisite time period. Therefore, this case will be dismissed without prejudice as to Defendant Randy Drew.

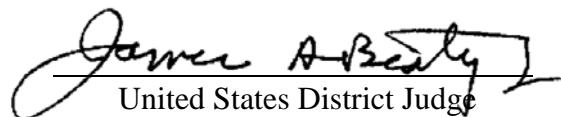
With respect to damages against Defendants Airvest, Inc. and Uplift, Inc., the Court finds that Plaintiff is entitled to compensatory damages for breach of contract in the contract amount of \$600,000.00, plus interest of \$57,833.46. In addition, taking the allegations in the Complaint as admitted, the Court finds that Plaintiff is entitled to treble damages for fraud and unfair and deceptive trade practices pursuant to North Carolina General Statute § 75-1.1 et seq.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff recover of Defendants Airvest, Inc. and Uptrend, Inc., jointly and severally, \$1,857.833.46, plus post-judgment interest.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff recover of Defendants Airvest, Inc. and Uptrend, Inc., jointly and severally, costs in this action of \$330.00.

FINALLY, IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff's claims against Defendant Randy Drew are DISMISSED WITHOUT PREJUDICE for failure to obtain service within the time required by Federal Rule of Civil Procedure 4.

This, the 22nd day of June, 2006.



United States District Judge